

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED
JUN 10 2005
ADMINISTRATIVE HEARING
COMMISSION

STATE COMMITTEE FOR SOCIAL WORKERS,)

Petitioner,)

v.)

SHEILA MILLER,)

Respondent.)

No. 05-0488 SW

JOINT STIPULATION OF FACTS, WAIVER OF HEARINGS BEFORE
THE ADMINISTRATIVE HEARING COMMISSION AND STATE
COMMITTEE FOR SOCIAL WORKERS, AND CONSENT ORDER
WITH JOINT PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission (1 CSR 15-3.440) and pursuant to the terms of § 536.060, RSMo 2000, as it is made applicable to the Administrative Hearing Commission by § 621.135, RSMo 2000, the parties waive the right to a hearing of the above-styled case by the Administrative Hearing Commission of the state of Missouri and, additionally, the right to a disciplinary hearing before the State Committee for Social Workers under § 621.110, RSMo 2000, and jointly stipulate to the facts and consent to the imposition of disciplinary action against the license of Respondent for violations of statutes set forth below.

Respondent acknowledges that she has received and reviewed a copy of the Complaint filed by the State Committee for Social Workers in this case and the parties submit to the jurisdiction of the Administrative Hearing Commission.

Respondent acknowledges that she is aware of the various rights and privileges afforded her by law, including the right to appear and be represented by counsel; the right to have a copy of the Complaint served upon her by the Administrative Hearing Commission prior to the entering of its order; the right to have all charges against Respondent proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondent; the right to present evidence on Respondent's own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the complaint pending against Respondent; and the right to a ruling on questions of law by an administrative hearing commissioner. Being aware of these rights provided Respondent by operation of law, Respondent, Sheila Miller, knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee for Social Workers, and Consent Order with Joint Proposed Findings of Fact and Conclusions of Law and agrees to abide by the terms of this document as they pertain to Respondent.

I

Based upon the foregoing, Petitioner and Respondent jointly stipulate to the following and request that the Administrative Hearing Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law:

JOINT PROPOSED FINDINGS OF FACT

1. Petitioner, the State Committee for Social Workers ("Committee"), is an agency of the state of Missouri created and established pursuant to § 337.622, RSMo 2000, for the purpose of administering and enforcing the provisions of Chapter 337, RSMo, relating to social workers.

2. Respondent, Sheila Miller ("Miller"), is licensed by the Committee as a clinical social worker, license No. 2001020188. Miller's license was first issued on August 13, 2001. Miller's license was at all times relevant herein, and is now, current and active.

3. Between approximately October 1996 and March 4, 2002, Miller was employed at Lafayette House located at 1809 Connor Avenue, Joplin, Missouri.

4. From October 1996 to January 1999, Miller was employed by Lafayette House as a community support worker.

5. From January 1999 to August 13, 2001, Miller was employed by Lafayette House as a serenity alcohol and drug abuse counselor trainee.

6. From August 13, 2001 to March 5, 2002, Miller was employed as a licensed clinical social worker at the Lafayette House and remained a serenity alcohol and drug abuse counselor.

7. Between approximately July 2001 to February 2002, Miller possessed and consumed Methamphetamine.

8. Miller called in sick to work when she "knew" she would be impaired because of her use of drugs.

9. Miller's increased absences, due to her substance abuse, from work in August 2001 and continuing until March 2002, impacted her client's care continuity and the quality of service they received.

10. Miller's conduct alleged herein violates 4 CSR 263-3.040, which states in relevant part:

(4) A licensed clinical social worker, . . . should be aware of his/her own mental health and emotional stability and the effect those have on his/her ability to provide appropriate services to clients. A licensed clinical social worker, . . . shall not undertake or continue a professional relationship with a client when the competency of the licensed clinical social worker, . . . is or reasonably could be expected to be impaired due to mental, emotional, physiologic, pharmacologic or substance abuse conditions. If that condition develops after a professional relationship has been initiated, the licensed clinical social worker, . . . shall notify the client in writing of the termination of services and shall assist the client in obtaining services from another professional.

11. On or about February 15, 2002, Miller's employer confronted her about her absences, at which time Miller admitted that she had been abusing Methamphetamine. As a result, Miller's employer offered intervention and treatment services to Miller.

12. Miller did not enter into or complete a treatment recovery program when offered by her employer because she was embarrassed, so she attempted to work on recovery on her own.

13. Miller's conduct alleged herein violates 4 CSR 263-3.140, which states in relevant part: "(11) Licensed clinical social workers, . . . shall seek treatment for their own medical, substance abuse, psychological and emotional problems to ensure that their personal problems do not interfere with their ability to provide services to clients."

14. After Miller's meeting with her employer on February 15, 2002, Miller did not return to work for three weeks.

15. When Miller failed and/or refused to obtain appropriate treatment for her substance abuse problem, Lafayette House terminated Miller on or about March 5, 2002.

16. Although Miller temporarily stopped consuming Methamphetamine in February 2002, Miller relapsed in May 2002.

17. At all relevant times herein, Miller did not have a valid prescription for Methamphetamine.

18. Pursuant to § 195.017, RSMo, Methamphetamine is a controlled substance.

JOINT PROPOSED CONCLUSIONS OF LAW

19. Cause exists for the Committee to take disciplinary action against Respondent's

license under § 337.630.2(2), RSMo 2000, which states in pertinent part:

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 337.600 to 337.639 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of clinical social work; . . .

. . . .

(5) Incompetency, misconduct, . . . in the performance of the functions or duties of a clinical social worker;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.600 to 337.639, or of any lawful rule or regulation adopted pursuant to sections 337.600 to 337.639;

. . . .

(13) Violation of any professional trust or confidence;

. . . .

(15) Being guilty of unethical conduct as defined in the ethical standards for clinical social

workers adopted by the committee by rule and
filed with the secretary of state.

II

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Committee in this matter under the authority of § 621.110, RSMo 2000. This disciplinary order will be effective immediately upon the issuance of the Consent Order of the Administrative Hearing Commission without further action by either party:

1. Respondent's license as a licensed clinical social worker, License No. 2001020188, is hereby placed on PROBATION for a period of 2 years ("disciplinary period"). During the disciplinary period, Respondent shall comply with the following terms and conditions:

I. GENERAL REQUIREMENTS

- A. Respondent shall meet with the Committee or its representatives at such times and places as required by the Committee after notification of a required meeting.
- B. Respondent shall keep the Committee apprised of her current home and work addresses and telephone numbers. Respondent shall inform the Committee within ten days of any change of home or work address and home or work telephone number.

- C. Respondent shall comply with all provisions of the Chapter 337, RSMo, pertaining to social workers; all of the regulations of the Committee; and all federal and state criminal laws. "State" here includes the state of Missouri and all other states and territories of the United States.
- D. During the disciplinary period, Respondent shall timely renew her license and timely pay all fees required for licensing and comply with all other Committee requirements necessary to maintain Respondent's license in a current and active state.
- E. During the disciplinary period, Respondent shall accept and comply with unannounced visits from the Committee's representatives to monitor her compliance with the terms and conditions of this Order.
- F. Respondent shall notify, within 15 days of the effective date of this Order, all facilities where Respondent practices of Respondent's disciplinary status. Notification shall be in writing and Respondent shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Committee for verification by the Committee or its designated representative.
- G. For purposes of this Order, unless otherwise specified in this Order, all reports, documentation, evaluations, notices, or other materials required to be submitted to the Committee in this Order shall be forwarded to: State

Committee for Social Workers, 3605 Missouri Boulevard, P.O. Box 1335,
Jefferson City, Missouri 65102.

- H. This Order does not bind the Committee or restrict the remedies available to it concerning any other violation of Chapter 337, RSMo, by Respondent not specifically mentioned in this document.

II. REQUIREMENTS REGARDING CHEMICAL DEPENDENCY TREATMENT AND REHABILITATION:

- A. Within 90 days of the effective date of this Order, Respondent shall undergo a thorough evaluation by a qualified chemical dependency provider. Respondent shall show this Order to the treating professional before the evaluation is performed. Respondent shall accept and abide by all recommendations for treatment, care, and counseling as recommended by the treating professional. The treating professional conducting the evaluation shall forward a complete report of the evaluation to the Committee within ten days of completion of said report. The report shall include a description of all tests performed, test results, findings, diagnoses, prognosis, and recommendations for treatment, including the chemical dependency professional recommended for treatment of Respondent. If the treating professional determines that treatment is not recommended, Respondent shall execute a release so that the Committee can see the evaluation and supporting documents. If treatment is not recommended, Paragraphs C through L do not apply to Respondent.

- B. The chemical dependency provider shall submit evidence to the Committee showing that he or she is licensed.
- C. If treatment is recommended, Respondent shall execute a medical release or other appropriate release that shall remain in effect for the entire period covered by this Order authorizing the Committee to obtain records of Respondent's treatment by the chemical dependency provider. Respondent shall not take any action to cancel this release. Respondent shall take any and all steps necessary to continue the release in effect and shall sign a new release when requested.
- D. Pursuant to this Order, Respondent is required to submit to care, counseling, and/or treatment, as recommended by the chemical dependency provider, and to abide by any and all practice restrictions recommended in connection with the chemical dependency provider's recommended treatment plan.
- E. Respondent shall follow all recommendations for treatment.
- F. Respondent shall direct the designated treating professional to provide the Committee with follow-up reports on a quarterly basis, with the reports due by December 1, March 1, June 1, and September 1 each year during the disciplinary period. The follow-up reports shall detail Respondent's progress with treatment; Respondent's compliance with all treatment recommendations;

any subsequent testing or evaluation performed since the last report; and any problems identified since the last reports, diagnoses, and prognosis.

- G. If the treatment of Respondent is successfully completed during the disciplinary period, Respondent shall cause the treating professional to submit a letter of evaluation to the Committee stating that Respondent has successfully completed treatment. Such a letter shall include a statement that, to reasonable degree of certainty, the treatment professional has assessed that Respondent is no longer a threat to any patient or client. The letter shall also outline the recommendations and arrangements for appropriate follow-up or aftercare. Respondent shall follow all recommendations for follow-up or aftercare and shall document compliance with all such recommendations.
- H. If a 12-step program or other support group attendance is recommended, Respondent shall submit evidence of attendance of the meetings to the Committee on a quarterly basis, with the reports due by December 1, March 1, June 1, and September 1 each year during the disciplinary period. The documentation shall include the date, time, and place of the meeting and shall bear a signature or abbreviated signature of another person verifying attendance.
- I. Respondent shall inform any professional preparing a prescription for Respondent of Respondent's chemical dependency diagnosis and history.

- J. During the disciplinary period, Respondent shall abstain completely from the personal use or possession of any controlled substance or other drug for which a prescription is required unless that use of the drug has been prescribed by a person licensed to prescribe such drug and with whom Respondent has a bona fide relationship as a patient. Upon request, Respondent shall execute a medical release authorizing the Committee to access all records pertaining to Respondent's condition, treatment, and prescription maintained by the health care professional that prescribed the controlled substance. The presence of any controlled substance whatsoever in a biological fluid sample for which Respondent does not hold a valid prescription shall constitute a violation of this Order.
- K. During the disciplinary period, Respondent shall abstain completely from the use or consumption of alcohol. The presence of any alcohol whatsoever in a biological fluid sample shall constitute a violation of this Order.
- L. Respondent shall provide the Committee with documentation of any prescription upon request.

III. DRUG SCREENS

During the disciplinary period, Respondent shall, at Respondent's cost, submit to biological fluid testing as required by the Committee. Respondent shall, upon demand and without delay, allow the Committee's designated representative to obtain

witnessed biological fluid samples and shall cooperate fully and completely with the Committee's designated representative in providing such samples. The presence in a biological fluid sample of alcohol or any controlled substance for which Respondent does not hold a valid prescription shall constitute a violation of this Order.

IV. REQUIREMENTS REGARDING SUPERVISED PRACTICE

- A. Respondent's practice as a clinical social worker during the period of probation shall be supervised by a clinical social worker approved by the State Committee for Social Workers. If Respondent fails to secure a supervisor within 20 business days from the start of probation, the Respondent shall cease practicing clinical social work until a supervisor is secured. Respondent shall be responsible for any payment associated with the supervision.
- B. In the event the approved supervisor becomes unable or decides not to continue serving in his/her capacity as a supervisor or otherwise ceases to serve as a supervisor during the period of probation, then the Respondent shall:
 - (1) within three business days of being notified of the supervisor's inability or decision not to continue serving as the supervisor, or otherwise learning of the need to secure a supervisor, advise the State Committee for Social Workers in writing that Respondent is needing to secure a supervisor and the reasons for such change; and

(2) within 20 business days of being notified of the supervisor's inability or decision not to continue serving as the supervisor, or otherwise learning of the need to secure a supervisor, secure a supervisor pursuant to and in accordance with the terms and conditions set forth in this Joint Stipulation. After 20 business days, the Respondent shall not practice if he or she has not secured a supervisor.

C. The supervisor shall be vested with administrative authority over all matters affecting the provision of clinical social work services provided by Respondent so that the ultimate responsibility for the welfare of every client is maintained by the supervisor.

D. Respondent's supervisor shall report to the Committee in writing on a quarterly basis, with the reports due by December 1, March 1, June 1, and September 1 each year during the disciplinary period. It is Respondent's responsibility to ensure that these reports are provided in a timely manner.

2. The parties to this Joint Stipulation understand that the Committee will maintain this Joint Stipulation as an open and public record of the Committee as provided in Chapters 337, 610, and 620, RSMo.

3. Upon the determination of the Committee that the Respondent has failed to comply with the terms of this Joint Stipulation, the Committee may revoke Respondent's license or may take such other or additional disciplinary action against Respondent or

Respondent's license as the Committee deems appropriate. No order shall be entered by the Committee pursuant to this paragraph of this consent order without notice and an opportunity for hearing before the Committee in accordance with the provisions of Chapter 536, RSMo.

4. Upon the expiration and successful completion of the period of probation, Respondent's license as a licensed clinical social worker in Missouri shall be fully restored if all other requirements of law have been satisfied.

5. If the Committee determines that the Respondent has violated a term or condition of this Joint Stipulation, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Committee may elect to pursue any lawful remedies or procedures afforded it and is not bound by this stipulation in its determination of appropriate legal actions concerning that violation. If any alleged violation of this Joint Stipulation occurred during the disciplinary period, the Committee may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, it may impose further discipline. The Committee retains jurisdiction to hold a hearing to determine if a violation of this Joint Stipulation has occurred.

6. In consideration of the foregoing, the parties consent to the entry of record and approval of this Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee for Social Workers, and Consent Order and to the

termination of any further proceedings before the Administrative Hearing Commission based upon the Complaint filed by the Petitioner in the above-styled action.

7. The terms of this Joint Stipulation are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Joint Stipulation nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

8. Respondent hereby waives and releases the Committee, its members and any of its employees, agents, or attorneys, including any former committee members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this settlement and release agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this settlement and release agreement in that it survives in perpetuity even in the event that any court of law deems this settlement and release agreement or any portion thereof void or unenforceable.

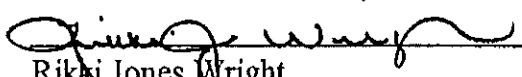
RESPONDENT


Sheila Miller

PETITIONER


Vanessa Beauchamp
Executive Director

JEREMIAH W. (JAY) NIXON
Attorney General


Rikki Jones Wright
Assistant Attorney General
Missouri Bar No. 45786

7th Floor, Broadway State Office Building
221 West High Street
P. O. Box 899
Jefferson City, MO 65102
Telephone: 573-751-5406
Telefax: 573-751-5660

Attorneys for Petitioner